

## **REMARKS**

Applicants have carefully considered the Office Action dated November 17, 2009 and the references cited therein. Applicants hereby request continued examination.

### **Status of the Claims**

Claims 1-22 are pending in the application.

Claims 1-3, 5, 7-10 and 16-22 are rejected under 35 USC 103(a) as being unpatentable over Finn (WO 01/11495) in view of Mitton (US 6,355,869) and further in view of Niikura (JP06-068168).

Claim 4 is rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Niikura., and further in view of Weare (US 2003/0045954).

Claims 6 and 11-14 are rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Niikura, and further in view of Balnaves (US 6,954,894).

Claim 15 is rejected under USC 103(a) as being unpatentable over Finn in view of Mitton, and further in view of Niikura, and further in view of Williams (US 6,308,154).

### **Claim Rejections – 35 USC 103(a)**

Prior to addressing the examiner's rejections, applicants respectfully request that the examiner consider the following remarks. The prior art citations disclose systems and techniques for searching and finding files that match an audio input. Indeed, Finn, Mitton and now Niikura are all concerned with the *retrieval* of media files, not for the purpose of augmentation of any other signal but specifically in terms of searching and finding files that match a search criteria, where the searching is primary object to which the prior art disclosure is aimed. This is a different technical field to the present invention. The invention of the present application is concerned with *augmentation* of an audio signal with media (video) fragments.

Claims 1-3, 5, 7-10 and 16-22 are rejected under 35 USC 103(a) as being unpatentable over Finn (WO 01/11495) in view of Mitton (US 6,355,869) and further in

view of Niikura (JP06-068168). Applicants traverse such rejection of claims on the grounds that the Examiner has failed to create a prima facie case of obviousness. In accordance with MPEP §2143.03, to establish a prima facie case of obviousness 1) the prior art reference (or references when combined) must teach or suggest all of the claim limitations; 2) there must be some suggestion or motivation to modify a reference or combine references; and 3) there must be a reasonable expectation of success. Applicants respectfully assert that the combined teaching of the cited references do not teach disclose or suggest all of the claim limitations.

Claim 1 has been previously amended to recite "outputting said media fragments in tandem with said audio signal" (claim 1, line 10). The examiner correctly notes that the combined teachings of Finn in view of Mitton do not specifically teach outputting in tandem with said audio signal. Instead, the examiner is relying on Niikura to provide this missing teaching, stating that Niikura teaches outputting in tandem with said audio signal, where based on an input speech from the user corresponding video and sound information containing the input speech (keyword) is outputted.

Applicants respectfully disagree with the examiner's analogy and interpretation of Niikura in light of the recited claim language. Claim 1 explicitly recites "receiving an audio signal" (claim 1, line 3) and, as noted previously, further recites "outputting said media fragments in tandem with *said audio signal*" (claim 1, line 10; emphasis added). Accordingly, the audio signal output in tandem is the *same* audio signal as received. Such is not the case in Niikura. In Niikura, the Examiner states "Niikura does teach the outputting in tandem with said audio signal (see [0010] and [0024], where based on an input speech from user corresponding video and sound information containing the input speech (keyword) is outputted)". Applicants respectfully assert that Niikura does not disclose what the Examiner is alleging. Niikura discloses (as far as can be understand from a machine translation) a system where a user speaks a word and a video file that contains a match to that word is recalled. However, there is no disclosure in Niikura of outputting the originally spoken word *in tandem* with the recalled video file.

The system described in Niikura appears to work by receiving a spoken word and converting the audio file of the spoken word into a keyword and then searching for a video file that has a matching keyword associated therewith. In the Niikura system, prior processing has taken place to determine keywords in the stored video files. For example, paragraph 9 of Niikura states "an image retrieval method by an audio keyword which searches video information by making into a keyword a word contained in speech information". In paragraph 10, Niikura states "the database which has speech information and video information, the word contained in speech information is made into a keyword and index is given to video information, and image retrieval is carried out". Therefore, given the crudeness of the translation, it appears that at least part of the audio components of video files are converted into keywords and indexed in a database.

In Niikura, when a user inputs an audio signal containing a spoken a word, it is converted into a keyword index and matched against the indexed keywords associated with a video file in order to find any video files having the user's desired content within the video file. The video and audio from the located media file will then be outputted, which will include the word keyword, but NOT the originally received audio signal of the spoken word before it was converted into an index keyword. If the Examiner is maintaining that Niikura teaches that the video will be output with the audio file of the original spoken word then, applicants respectfully assert that such is an erroneous misreading of Niikura. Where the Examiner states about Niikura that "sound information containing the input speech" is outputted, the examiner is respectfully confusing the originally received audio signal of a spoken word on which the searching is carried out with the audio segment of the retrieved file, which may include a similar spoken word but certainly not the originally received audio signal of the same spoken word. When in paragraph 24 of Niikura it states "An image and the voice output part 15 carry out output reproduction of video information and the speech information simultaneously" it is talking about the video and audio within the retrieved media file. It is not talking about the video file and the originally input audio word.

The fact that two different audio signals, each comprising human speech utterances of a spoken word can have similar parameters does not somehow make the two different audio signals the same signal, as required by claim 1. The error in the examiner's analogy is even more transparent if the received audio signal is not human speech but is music. If such instance, the system disclosed in Niikura would not be capable of finding matching content as speech recognition and music recognition are two different processes. As such the examiner's analogy fails to establish that Niikura teaches discloses or suggests "receiving an audio signal" and then outputting the same audio signal in tandem with media fragments, as required by claim 1.

Light of the foregoing, applicants respectfully assert that the examiner has failed to establish a *prima facie* case of obviousness since the combined teachings of the Finn, Mitton, Niikura references do not teach, disclose, or suggest all of the limitations of claim 1 since does Niikura does not provide the knowledged deficiencies in the combined teachings of the Finn with Mitton. Claims 17 and 21 currently recite similar language (claim 17, lines 2 and 7-8; claim 21, 4 and lines 11-12). Accordingly, applicants respectfully assert that claims 1, 17 and 21, as well as their respective dependent claims, as applicable, distinguish over the combined teachings of Finn, Mitton and Niikura.

Notwithstanding the foregoing reasons for patentability, claim 1 has additionally been amended to recite the limitations of claim 4, now canceled. Claim 1 now specifically defines the nature of the dramatic parameters and recites "wherein the dramatic parameters include mood, changes of pace and incidents" (claim 1, lines 5-6). Claim 4 has been canceled, without prejudice. Claims 17 and 21 have also been amended to is recite similar language (claim 17, line 9; claim 21, lines 7-8).

In the rejection of cancelled claim 4, the examiner correctly notes that the combined teachings of Finn in view of Mitton in view of Niikura do not teach the parameters being mood, change of pace, incidents. Instead the examiner is relying on Weare to provide such missing teaching stating that Weare teaches use of the parameters mood, change of pace, and incidents and, further, that it would have been obvious to modify the audio searching of Finn in view of Mitton in view of the Niikura

and use video is taught by Weare for classification of media entities according to melodic properties.

Applicants respectfully assert that the examiner has failed to establish a *prima facie* case of obviousness since the combined teachings of the Finn, Mitton, Niikura references do not teach, disclose, or suggest all of the limitations of claim 1 since does Niikura does not provide the acknowledged deficiencies in the combined teachings of the Finn with Mitton, for the reasons stated previously. Nor does Weare provide the teachings missing from the combination of Finn, Mitton, and Niikura. Even if discloses the teachings as alleged by the examiner, which applicants are not hereby conceding, such teachings will not remedy the knowledged deficiencies as set forth above with reference to the combination of Finn, Mitton, and Niikura. Accordingly, applicants respectfully assert that claims 1, 17 and 21, as well as their respective dependent claims, as applicable, further distinguish over the combined teachings of Finn, Mitton, Niikura and Weare.

In light of the foregoing amendment remarks, Applicant believe claims 1-22 are in allowable condition. A notice of allowance for this application is solicited earnestly. If after considering the above remarks and amendments, the Examiner is still not of the opinion that allowable subject matter is claimed, Applicants respectfully request a telephone interview with the Examiner and his/her respective Supervisory Patent Examiner to resolve any outstanding issues prior to issuance of any further office actions, or, if the Examiner has any further questions regarding this amendment, he is invited to call Applicants' attorney at the number listed below. The Examiner is hereby authorized to charge any fees or credit any balances under 37 CFR §1.17, and 1.16 to Deposit Account No. 03-2410 (Order No. 42551-107).

Respectfully submitted,

/Bruce D. Jobse/  
Bruce D. Jobse, Esq. Reg. No. 33,518  
Burns & Levinson LLP  
Customer Number 26486  
Tel: (617) 345-3000 Fax: (617) 345-3299

Date: 2010-04-16